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SUBJECT: (C) GOK PUSH TO AMEND PRESS LAW: CAUSE FOR CONCERN

Classified By: (U) AMBASSADOR RICHARD H. JONES; REASON: 1.6X6

1. (C) SUMMARY: The GOK is making a strong push to gain passage of a new press law before the National Assembly session ends June 10. The bill contains a number of provisions that would restrict current press freedoms. Ruling-family politics appear to be a factor in this latest push to amend the press law -- one of several since Liberation. In what may be a sign that the GOK is willing to play hardball, on May 19 it froze the assets of Shaykh Ali al-Khalifa al-Sabah, principal owner of the newspaper whose publisher most vociferously opposes the draft law, ostensibly because it just now decided there are serious allegations against Shaykh Ali that need to be investigated in relation to a scandal that broke ten years ago over events dating back to 1984. END SUMMARY.

2. (C) Local media have carried a number of articles in recent weeks regarding the GOK's draft Press and Publications Law. In a meeting with PAO, PAS FSN and PolChief May 20, Mohammed al-Jassem (protect throughout), publisher and editor-in-chief of the daily newspaper Al-Watan, said that he, as a trained lawyer, has taken the lead in critiquing the bill, drawing up a memorandum to the Minister of Information that was signed by all the editors-in-chief of Kuwaiti dailies in January 2002. Key elements:

- The Prosecutor General would have the power to suspend publication of a newspaper without filing criminal charges, if he determined that it published anything against Kuwait's interest or worked for another country. (Al-Jassem commented that these criteria are so vague they could encompass anything the Government wanted them to. He said the current law requires a decision by the entire Council of Ministers in order to close down a newspaper.)

- The Prosecutor General could veto any advertisements, which would put the financial health of newspapers at his mercy.

- The Minister of Information would have the power to close down printing presses.

- Publication of any article would be subject to prior censorship.

- Publication of the proceedings of closed sessions of parliament or the Cabinet would be prohibited. (Al-Jassem said this provision is in response to court rulings affirming the right and responsibility of the press to report on closed sessions.)

- The ban on offending Islam, God or the Prophet Mohammed would be reinforced with stiffer fines and expanded to encompass offenses to "the foundations of doctrine" (a worrisomely vague term, in Al-Jassem's estimation, who noted that the editors-in-chief's joint memorandum called for eliminating "hisba," the right of any Muslim to file criminal charges against anyone who defames Islam).

- Offending a judicial person would be banned.

- The editor-in-chief as well as the author of an offending article would both be liable, even if the editor-in-chief was out of the country at the time the article was published. (Al-Jassem said this provision is based on the principle of "presumed responsibility" which has been found unconstitutional in Egypt.)

- The bill recommends that no new licenses be issued for newspapers. (Al-Jassem said his newspaper supports the principle of competition, therefore it opposes this provision.)

- A recent addition to the draft would prohibit press "campaigns," which could mean as few as two or three articles on a given subject. (Al-Jassem gave an example: one article criticizing Syria would be acceptable, but two would be a campaign. He said this provision is a reaction to what the GOK perceives as US media campaigns against Saudi Arabia.)

- On the positive side, the bill would eliminate jail sentences for press offenses (except for affronts to religion), but it would increase fines to as much as 10,000

Kuwaiti Dinars (approx. USD 33,000).

13. (C) Al-Jassem summarized the saga of the Press and Publications bill as follows: it is essentially the same text that every Information Minister since Liberation has tried to push through the National Assembly. The current Information Minister, the young Shaykh Ahmed al-Fahd al-Ahmed al-Sabah, whose main interest was sports until he was handpicked by his uncle First Deputy Prime Minister and Foreign Minister Shaykh Sabah al-Ahmed, is now trying to prove his worth to Shaykh Sabah, "an enemy of the press," in hopes of gaining a more prestigious portfolio in the Cabinet reshuffle that will follow the July 5 National Assembly general election. Faced with the united opposition of the editors, Shaykh Ahmed went directly to the Kuwait Journalists Association to obtain support, and misled the National Assembly's Committee on Education, Culture and Guidance into believing the bill enjoyed broad acceptance. When disabused by the editors, the Committee agreed to freeze consideration of the bill until after the general election. Now, to everyone's surprise, the GOK is making a fresh push to gain passage, even though there are only four more days of scheduled sessions on the National Assembly's calendar before it adjourns for the elections. Al-Watan is putting editorial pressure on key MPs to try to prevent the bill from passing. Al-Jassem thought he would succeed in blocking the GOK, because the MPs know his newspaper could "destroy" them if they abet the regime's attempt to muzzle the press.

14. (C) In response to Emboffs' questioning, Al-Jassem gave details of GOK action taken the previous day against the owner of Al-Watan, Shaykh Ali al-Khalifa al-Sabah, who was Minister of Oil in 1990. He said Shaykh Ali was banned from traveling outside the country (although he is already in the US to attend his son's graduation), his personal assets were frozen (not including Al-Watan, which he owns indirectly in conjunction with 35 partners), and two men were appointed to manage his assets. All these actions were taken because the GOK just now decided that serious allegations exist against Shaykh Ali that require investigation, in connection with the so-called "oil tankers case" which erupted in 1993 regarding events dating back to 1984. Al-Jassem was uncharacteristically reluctant to accuse the GOK of trying to get at him through Shaykh Ali, but he allowed that the timing was remarkably coincidental after all these years. He further claimed that a ten-year statute of limitations applies. (Comment: To be fair to the GOK this case was given new impetus lately with the extradition of a key figure in the investigation from the U.S.)

15. (C) Throughout the conversation with Emboffs, Al-Jassem portrayed himself as the only person in Kuwait who dares speak scathingly of Shaykh Sabah to his face. He claimed to have told the 74-year-old de facto ruler that he was "too old" to be governing the country. He also claimed to have told Shaykh Ahmed al-Fahd that he had a great future as one of the few younger-generation members of the ruling family who could revitalize Kuwait, but that he was throwing away his future by tying himself to Shaykh Sabah, whose enmity for the media and for democracy would destroy the country. Almost as an aside, Al-Jassem remarked that Al-Watan was the only newspaper that supported last summer's parliamentary "grilling" of then-Finance Minister Yusuf al-Ibrahim. (COMMENT: If successful, the grilling could have forced al-Ibrahim out of office, or even brought down the entire Cabinet. In the event, al-Ibrahim survived the vote of no-confidence, though he has since resigned. END COMMENT.)

16. (C) COMMENT: There is obviously a great deal of personal enmity in Al-Jassem's account, but the specific elements he cited as points of concern regarding the draft Press and Publications Law track with our own understanding. He also shared copies of matrices showing differences between the current law and the bill, and between the bill and the parliamentary committee's position. (We have no reason to doubt the veracity of this analysis.) Without getting embroiled in local politics, we will endeavor to find ways to remind the GOK of the centrality of press freedom in our values and in US foreign policy. If nothing else this will put the lie to any malicious allegations of U.S. acceptance of or complicity in this misbegotten GOK initiative.

JONES